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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/708,220	11/07/2000	Dan Kikinis	007287.00005	1136
22907 7590 10/17/2007 BANNER & WITCOFF, LTD. 1100 13th STREET, N.W. SUITE 1200 WASHINGTON, DC 20005-4051			EXAMINER LONSBERRY, HUNTER B	
			ART UNIT 2623	PAPER NUMBER
			MAIL DATE 10/17/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/708,220	KIKINIS ET AL.	
	Examiner	Art Unit	
	Hunter B. Lonsberry	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5-10,13-27,29 and 30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-10,13-27,29 and 30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 7/26/07 have been fully considered but they are not persuasive.

Applicant argues that the passages cited by the Examiner in the Clanton reference does not teach program guide information (page 7-8).

The Examiner respectfully disagrees. Program guide information in this instance refers to any information displayed *within* a program guide and is not merely limited to program scheduling information, but includes pizza delivery services, merchant information, news weather or sports programming.

Applicant argues that Ellis does not teach customizing the program guide information, and that enabling a user to set preferences for types of shows etc, is not the same as "the presentation engine enabling the user to customize the EPG based on user preferences." Customizing the EPG virtual world based on programming choices is not the same as customizing based on user preferences. (Page 8)

The Examiner respectfully disagrees. While customizing display preferences (for example color, presentation theme, resolution etc), may in fact be different from programming display preferences, the claims, in their current form merely require that

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the user customize the EPG according to a preference. The claim does not specify if this is a preference in programming content (for example programming listings, whether or not to display closed captions) to be displayed within the EPG, a preference related to how the content is arranged for display within the EPG (for example a theme, color, etc) or indeed anything specifying a specific type of preference. The Examiner suggests applicant amend the claims to clarify applicants invention to specify the type of preference to obviate the art of record. The Examiner further suggests that Applicant amends in such a way to develop a relationship between the type of content selected and the resultant displayed theme. For example, displaying the news world when news programming is selected (page 11 of the specification) or baseball/sci-fi/Disney world for the contextually related programming (page 10).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5, 8-9, 20-23, and 26-27, 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,754,906 to Finseth in view of U.S. Patent 5,745,710 to Clanton, U.S. Patent 6,990,677 to Pietraszak and U.S. Patent 6,898,762 to Ellis.

Regarding claim 1, Finseth discloses a 3d enabled electronic program guide (Figure 8a/b, column 16, lines 32-34), a user may select the style of the guide they wish to utilize (column 20, lines 57-59), receiver 64 receives EPG information from an EPG data transmitting system (column 5, line 33-38, line 60-column 6, line 38) a user may choose the guides dynamically (figure 10).

Finseth fails to disclose a plurality of virtual worlds, which are presented to the user for selection and a presentation engine, which enables a user to choose a virtual world according to preference, displaying program guide information within the chosen world, neither does Finseth explicitly disclose the use of a plurality of drivers, one of the drivers enabling the presentation engine to communicate with a television system for replenishing EPG information, nor does Finseth teach enabling the user to customize the EPG according to user preferences.

Clanton discloses a plurality of virtual worlds (Figure 4, archive 71, critics café 92, poster wall 80) and a presentation engine which enables a user to choose a virtual world according to preference (column 8, lines 3-19, 48-column 9, line 64) each virtual world displays corresponding program guide information (user views information on pizza delivery services, merchant information, news weather or sports programming) within the chosen virtual world (column 12, lines 10-26),

a memory in the system, which contains a plurality of objects (column 7, lines 13-18), one class of objects providing the plurality of virtual worlds a user views (column 7, lines 13-18, column 10, lines 26-29).

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an intuitive interface which is fun and interesting to use is provided (column 2, lines 30-33).

Therefore it would have been obvious to one skilled in the art at the time of invention to modify Finseth to utilize a plurality of words with corresponding program guide information, which a user may select as taught by Clanton, thus providing an intuitive interface, which is fun and interesting.

The combination of Finseth and Clanton, while requiring some mechanism to communicate with the hardware of the device, fails to explicitly disclose the use of drivers, nor does Finseth teach enabling the user to customize the EPG according to user preferences

Pietraszak discloses in figure 3, the use of an EPG loader which makes use of a device driver 65 and a number of API's to interface with the hardware of a STB and retrieve EPG data from an EPG provider (column 9, line 17-column 10, line 33, drivers are software modules designed to interface with a particular hardware component) and allowing a user to print out EPG information, and access EPG information from a number of different providers.

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the combination of Finseth and Clanton to utilize the drivers, multiple providers and printing functions of Pietraszak for the advantages of enabling a user to print out EPG information so that they may view it away from their television and ensure that the hardware and software components can communicate with one another.

The combination of Finseth, Clanton and Pietrazak fails to teach enabling the user to customize the EPG according to user preferences.

Ellis discloses an EPG system in which a user may customize the EPG (figures 13-15, 22, 24), a user viewing history is used to target advertisements and suggest programs for the viewer to watch as well as set user preferences for viewing options, close captions etc (column 12, lines 32-65, column 14, line 24-column 15, line 42, column 20, lines 2-31).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Finseth, Clanton and Pietrazak to utilize the customization features as taught by Ellis, in order to provide program suggestions to a user that match a user's interests, provide advertisements which would be of the most interest to the user.

Regarding claims 2, and 21, Finseth discloses in figure 3, a receiver 64 on which the EPG is run (column 9, lines 59-65, column 11, lines 23-29).

Regarding claims 5 and 23, Clanton discloses in figure 12, that a user may change channels during a movie (column 11, lines 29-44).

Clanton does not disclose a class of objects describing schedule times, including a channel id or title that may be converted into an actual channel number or program ID.

Finseth discloses a class of objects which includes descriptive language describing schedule times, thus class of objects having a channel id which may be

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converted into an actual channel number or program identification (column 7, lines 19-46, column 8, lines 22-34, figure 7).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the object classes of Clanton to include the descriptive objects of Finseth, thus enabling a user to readily identify a local channel by call sign and aide in the selection of programming.

Regarding claims 8 and 26, Clanton is relied upon to teach that a virtual world is automatically selected to be presented by the presentation engine based on the program content selected by the user (a user selects an "extra" (program content) and the corresponding virtual world content is automatically rendered, column 12, lines 1-26, 46-50).

Regarding claims 9 and 27, Clanton discloses a number of virtual worlds.

Clanton fails to disclose a virtual world displayed in a matrix of virtual boxes.

Finseth discloses in figure 7, a matrix of rectangular boxes, which a user may use to view future programming, the layout provides an intuitive interface as users are accustomed to reading from top to bottom (column 16, lines 14-19).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Clanton to utilize a matrix of rectangular boxes as taught by Finseth, thus providing an intuitive layout as viewers are accustomed to reading from top to bottom.

Regarding claim 20, Finseth discloses a 3d enabled electronic program guide (Figure 8a/b, column 16, lines 32-34), a user may select the style of the guide they wish to utilize (column 20, lines 57-59)

A receiver 64 receives EPG information from an EPG data transmitting system (column 5, line 33-38, line 60-column 6, line 38). Finseth inherently includes drivers as drivers are required in order to communicate with a hardware device..

Finseth fails to disclose a plurality of virtual worlds and a presentation engine, which enables a user to choose a virtual world according to preference and the use of drivers enabling the presentation engine to communicate with a TV system for replenishing program information and enabling the user to customize the EPG according to user preferences.

Clanton discloses a plurality of objects for selection (column 7, lines 13-18, column 10, lines 26-29, Figure 4, archive 71, critics café 92, poster wall 80)

a presentation engine, which enables a user to choose a virtual world according to preference (column 8, lines 3-19, 48-column 9, line 64), each virtual world displays corresponding program guide information (user views information on pizza delivery services, merchant information, news, weather or sports programming) within the chosen virtual world (column 12, lines 10-26), an intuitive interface which is fun and interesting to use is provided (column 2, lines 30-33).

Therefore it would have been obvious to one skilled in the art at the time of invention to modify Finseth to utilize a plurality of words that a user may select, each word displaying corresponding program guide information as taught by Clanton, for the advantage of providing an intuitive interface, which is fun and interesting.

The combination of Finseth and Clanton, while requiring some mechanism to communicate with the hardware of the device, fails to explicitly disclose the use of drivers and enabling the user to customize the EPG according to user preferences.

Pietraszak discloses in figure 3, the use of an EPG loader which makes use of a device driver 65 and a number of API's to interface with the hardware of a STB and retrieve EPG data from an EPG provider (column 9, line 17-column 10, line 33, drivers are software modules designed to interface with a particular hardware component) and allowing a user to print out EPG information, and access EPG information from a number of different providers.

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the combination of Finseth and Clanton to utilize the drivers, multiple providers and printing functions of Pietraszak for the advantages of enabling a user to print out EPG information so that they may view it away from their television and ensure that the hardware and software components can communicate with one another.

The combination of Finseth, Clanton and Pietraszak fails to teach enabling the user to customize the EPG according to user preferences.

Ellis discloses an EPG system in which a user may customize the EPG (figures 13-15, 22, 24), a user viewing history is used to target advertisements and suggest

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programs for the viewer to watch as well as set user preferences for viewing options, close captions etc (column 12, lines 32-65, column 14, line 24-column 15, line 42, column 20, lines 2-31).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Finseth, Clanton and Pietrazak to utilize the customization features as taught by Ellis, in order to provide program suggestions to a user that match a user's interests, provide advertisements which would be of the most interest to the user.

Regarding claims 29-30, Clanton discloses that a user may choose a virtual world to display programming information (column 10, lines 34-43). Clanton inherently enables a programmer to choose a virtual world to display programming information, as a programmer is required to create the user interface and designate which module within the interface would carry and display the programming information.

3. Claims 10, 13-15, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,754,906 to Finseth in view of U.S. Patent 5,745,710 to Clanton and U.S. Patent 6,898,762 to Ellis.

Regarding claim 10, Finseth discloses a 3d enabled electronic program guide (Figure 8a/b, column 16, lines 32-34), a user may select the style of the guide they wish

to utilize (column 20, lines 57-59), receiver 64 receives EPG information from an EPG data transmitting system (column 5, line 33-38, line 60-column 6, line 38).

Finseth fails to disclose a plurality of virtual worlds, which are presented to the user for selection and a presentation engine, which enables a user to choose a virtual world according to preference, displaying program guide information within the chosen world, neither does Finseth explicitly disclose the use of a plurality of drivers, one of the drivers enabling the presentation engine to communicate with a television system for replenishing EPG information.

Clanton discloses a plurality of virtual worlds (Figure 4, archive 71, critics café 92, poster wall 80) and a presentation engine which enables a user to choose a virtual world according to preference (column 8, lines 3-19, 48-column 9, line 64) each virtual world displays corresponding program guide information (user views information on pizza delivery services, merchant information, news weather or sports programming) within the chosen virtual world (column 12, lines 10-26),

a memory in the system, which contains a plurality of objects (column 7, lines 13-18), one class of objects providing the plurality of virtual worlds a user views (column 7, lines 13-18, column 10, lines 26-29).

an intuitive interface which is fun and interesting to use is provided (column 2, lines 30-33).

Therefore it would have been obvious to one skilled in the art at the time of invention to modify Finseth to utilize a plurality of words with corresponding program

guide information, which a user may select as taught by Clanton, thus providing an intuitive interface, which is fun and interesting.

The combination of Finseth, and Clanton fails to teach enabling the user to customize the EPG according to user preferences.

Ellis discloses an EPG system in which a user may customize the EPG (figures 13-15, 22, 24), a user viewing history is used to target advertisements and suggest programs for the viewer to watch as well as set user preferences for viewing options, close captions etc (column 12, lines 32-65, column 14, line 24-column 15, line 42, column 20, lines 2-31).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Finseth and Clanton to utilize the customization features as taught by Ellis, in order to provide program suggestions to a user that match a user's interests, provide advertisements which would be of the most interest to the user.

Regarding claim 13, Clanton discloses a memory in the system, which contains a plurality of objects (column 7, lines 13-18), one class of objects providing the plurality of virtual worlds a user views (column 7, lines 13-18, column 10, lines 26-29).

Regarding claim 14, Clanton discloses that the virtual worlds contain a plurality of objects, each object linked to an item to display (column 8, lines 48-61, Figures 5 and 8).

Regarding claim 15, Clanton discloses in figure 12, that a user may change channels during a movie (column 11, lines 29-44).

Clanton does not disclose a class of objects describing schedule times, including a channel id or title that may be converted into an actual channel number or program ID.

Finseth discloses a class of objects which includes descriptive language describing schedule times, thus class of objects having a channel id which may be converted into an actual channel number or program identification (column 7, lines 19-46, column 8, lines 22-34, figure 7).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the object classes of Clanton to include the descriptive objects of Finseth, thus enabling a user to readily identify a local channel by call sign and aide in the selection of programming.

Regarding claim 18, Clanton is relied upon to teach that a virtual world is automatically selected to be presented by the presentation engine based on the program content selected by the user (a user selects an "extra" (program content) and the corresponding virtual world content is automatically rendered, column 12, lines 1-26, 46-50).

Regarding claim 19, Clanton discloses a number of virtual worlds.

Clanton fails to disclose a virtual world displayed in a matrix of virtual boxes.

Finseth discloses in figure 7, a matrix of rectangular boxes, which a user may use to view future programming, the layout provides an intuitive interface as users are accustomed to reading from top to bottom (column 16, lines 14-19).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Clanton to utilize a matrix of rectangular boxes as taught by Finseth, thus providing an intuitive layout as viewers are accustomed to reading from top to bottom.

4. Claims 6 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,754,906 to Finseth in view of U.S. Patent 5,745,710 to Clanton and U.S. Patent 6,898,762 to Ellis in further view of U.S. Patent 5,850,218 to LaJoie.

Regarding claims 6 and 24, Finseth discloses an EPG.

Finseth and Clanton do not disclose that the object class containing the pseudo descriptive language included localized aspects.

LaJoie discloses an EPG Figure 16, in which a location station ID name 370 is associated with a channel number 372, a service table 103, utilized by the terminal identifies a channel source, and its corresponding descriptive information such as call sign or logo by referring to column 125 within table 103 (column 16, lines 29-51).

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the combination of Finseth, Clanton and Ellis to include localized

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information as taught by LaJoie, thus enabling a user to easily recognize a local channel by its station ID name.

5. Claims 7 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,754,906 to Finseth in view of U.S. Patent 5,745,710 to Clanton in further view of U.S. Patent 6,240,555 to Shoff.

Regarding Claims 7 and 25, Finseth discloses in Figure 9, an operating menu 124 in which a user may purchase items through an electronic catalog (column 20, lines 23-30).

Finseth and Clanton fail to disclose a number of non-EPG objects including interaction objects used for e-commerce conflated with one or more virtual worlds.

Shoff discloses an EPG in which a user may activate an interactive mode (virtual world) which is thematically related to a television program, in Figures 8b/c, a user may activate a button 220 which allows a user to open a merchandise catalog and order a product (column 10, lines 34-58, column 11, lines 3-11, 39-44, column 12, lines 7-23).

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the combination of Finseth and Clanton to include the e-commerce mode of Shoff thus allowing a user to purchase products related to a virtual world, and providing an increased sales opportunity by taking advantage of a user's affinity to the virtual world.

6. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,754,906 to Finseth in view of U.S. Patent 5,745,710 to Clanton, U.S. Patent 6,990,677 to Pietraszak and U.S. Patent 6,898,762 to Ellis and in further view of U.S. Patent 5,850,218 to LaJoie.

Regarding claim 16, Finseth discloses an EPG.

The combination of Finseth, Clanton, Pietraszak and Ellis do not disclose that the object class containing the psuedo descriptive language included localized aspects.

LaJoie discloses an EPG Figure 16, in which a location station ID name 370 is associated with a channel number 372, a service table 103, utilized by the terminal identifies a channel source, and its corresponding descriptive information such as call sign or logo by referring to column 125 within table 103 (column 16, lines 29-51).

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the combination of Finseth, Clanton, Pietraszak and Ellis to include localized information as taught by LaJoie, thus enabling a user to easily recognize a local channel by its station ID name.

7. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,754,906 to Finseth in view of U.S. Patent 5,745,710 to Clanton, U.S. Patent 6,990,677 to Pietraszak and U.S. Patent 6,898,762 to Ellis and in further view of U.S. Patent 6,240,555 to Shoff.

Claim 17 , Finseth discloses in Figure 9, an operating menu 124 in which a user may purchase items through an electronic catalog (column 20, lines 23-30).

The combination of Finseth, Clanton Ellis and Pietraszak fail to disclose a number of non-EPG objects including interaction objects used for e-commerce conflated with one or more virtual worlds.

Shoff discloses an EPG in which a user may activate an interactive mode (virtual world) which is thematically related to a television program, in Figures 8b/c, a user may activate a button 220 which allows a user to open a merchandise catalog and order a product (column 10, lines 34-58, column 11, lines 3-11, 39-44, column 12, lines 7-23).

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the combination of Finseth, Clanton Ellis and Pietraszak to include the e-commerce mode of Shoff thus allowing a user to purchase products related to a virtual world, and providing an increased sales opportunity by taking advantage of a user's affinity to the virtual world.

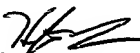
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hunter B. Lonsberry whose telephone number is 571-272-7298. The examiner can normally be reached on Monday-Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Hunter B. Lonsberry
Primary Examiner
Art Unit 2623

HBL